

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION**

UNITED STATES OF AMERICA

§

§

VS.

§

§

CHRISTIAN EUSEBIO DELGADO (1)

§

CASE NO. 4:15cr179
APPEAL NO. 17-40447

MEMORANDUM OPINION AND ORDER

On March 23, 2017, this Court entered judgment, sentencing defendant to 235 months imprisonment. Defendant filed a pro se notice of appeal on April 27, 2017. The final day for filing a timely notice was April 6, 2017.


Rule 4(b)(1) of the Federal Rules of Appellate Procedure affords a criminal defendant fourteen (14) days in which to file a notice of appeal. Pursuant to Rule 4(b)(4) of the Federal Rules of Appellate Procedure, a district court may grant an additional thirty (30) days in which to file a notice of appeal upon a finding of excusable neglect or good cause. Since Defendant filed his notice of appeal within the additional thirty (30) day period, the Fifth Circuit remanded the case to this court on September 29, 2017 for a determination of whether the untimely filing of the notice of appeal was due to excusable neglect or good cause. This Court subsequently entered an Order on October 11, 2017, directing Defendant to file an affidavit with the Court by November 9, 2017, explaining whether the untimely filing of his notice of appeal was due to excusable neglect or good cause.

In the Court's October 11, 2017 Order, Defendant was ordered to file an affidavit with the Court by November 9, 2017, explaining whether the untimely filing of his notice of appeal was due to excusable neglect or good cause. Defendant has failed to file an affidavit with the Court as

ordered. Defendant, therefore, has not offered any explanation as to whether the untimely filing of his notice of appeal was due to excusable neglect or good cause. In light of the foregoing, the Court finds that Defendant's untimely filing of his notice of appeal was not due to excusable neglect or good cause.

The Clerk is **ORDERED** to forward a copy of this memorandum to the Court of Appeals and to the parties in this lawsuit.

SIGNED this 30th day of November, 2017.



AMOS L. MAZZANT
UNITED STATES DISTRICT JUDGE